We will be discussing the Gujarat issue tomorrow. So, he will be here.

THE DEPUTY CHAIRMAN: So, you can seek clarifications on the Gujarat issue and the other thing together. You will have to inform me that we can do it tomorrow.

SHRI O. RAJAGOPAL: Okay, Madam.

THE DEPUTY CHAIRMAN: So, Shri Virumbi, you are going to speak. But, before Shri Virumbi starts, let's have a little bit of exchange. I was telling if Members are to be graded on the basis of their lung power, then, Shri Virumbi will be the last in the list because he is so polite and so soft that he will lose out ...*(Interruptions)*...

STATUTORY RESOLUTION

Seeking disapproval of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securityy Interest (second) Ordinance, 2002.

AND

The Securitisation and Reconstruction of Fifnancial Assets and Enforcement of Security Interest Bill, 2002

SHRI S. VIDUTHALAI VIRUMBI (Tamil Nadu) Madam Deputy Chairperson, yesterday, when I was speaking in the House on the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Bill, 2002, I made a mention about the statement given to the Estimates Committee of the Lok Sabha.

उपसभापति: जो भी मंत्री यहां उपस्थित हैं, लिख लीजिए.....नोट्स तो ले लीजिए।..... जगमोहन जी, आप तो बैठे हैं। आप पीछे क्यों बैठे हैं? आप आगे आइए। Please come in Front so that people can see. इतने कम लोग हैं, कोई तो आगे आकर बैठे। सारी front benches are empty. Yes, Mr. Virumbi.

SHRI S. VIDUTHALAI VIRUMBI: During 1999, the Reserve Bank of India Working Group on the Restructuring of the Weak Banks had stated, I quote: "The Financial Restructuring Authority (FRA) and the ARF owned by it may be set up under a special Act of the Parliament, which, while protecting it against obstructing litigation from the borrowers, could also provide for quick and effective enforcement of its right against them." This was the observation made by the Reserve Bank of India Working Group during 1999. Why such a type has emanated here in the India

polity. Madam, the gross non-performing assets of the scheduled commercial banks, as on March 31, 2002, stood at Rs.70904 crores. Madam, one year before, as on March 31, 2001, it was Rs. 63,741 crores. According to one school of thought, it ranges between Rs.1,30,000 crores and Rs.1,50,000 crores. Total expenditure of SCB 2002 was 8.1 per cent of their total assets, while in 2001 it was 9.7 per cent. Moreover, this was the position after the Government of India injected a huge amont of Rs.20,446 crores recapitalisation. Also, under the package scheme, they have given more than Rs.2,500 crores for the three weak banks. In spite of it, what is the situation? The current situation is that the ratio of gross non-performing assets to gross advances of scheduled commercial banks at the end of March, 2002, was 10.8 per cent, while at the end of March, 2001, it was 11.4 per cent. Therefore, the gross NPA has come down to 10.8 per cent from 11.4 per cent. At the same time, the ratio of the net NPAs to the net advances at the end of March, 2001, was 6.2 per cent, while at the end of March, 2002, it was 5.9 per cent. Therefore, the net NPA to the net advances ratio has also come down. Even though it has come down, the reason is different. What is the reason for that? I quote a few lines from the Economic Times which state: "One reason for the decline in NPAs is the change in the composition of assets in favour of investment in Government and other approved securities in the recent years." In a way it is correct because even after several decisions and action taken by the scheduled commercial banks the gross NPA has practically gone up from Rs.63,000 crores to Rs. 70,000 crores within a year. So, that is the difference between the gross NPA and the net NPA. What we want to know is that after financial reforms, how much money has been collected from the borrowers? And, how much money has been injected from the bank itself? I expect that the Government would give us this information. Then, the Reserve Bank of India has taken several measures in several agencies including the exposure norms, the asset classification and provisioning norms, the disclosure norms for transparency, investment by banks, compliance by banks with accounting system, consolidation accounting and supervision and deposit insurance. In these areas, the Reserve Bank has given much thought and they have taken some action,; some rules have been modified; some have been introduced and some have been negatived. In spite of all these, what is the situation? I tell you; the people are talking about priority sectors. The priority sectors are always compared only with the advances given by the

scheduled commercial banks. They have not included the advances given by the financial institutions. They have not included the advances given by other agencies. For example, if the advances of the scheduled commercial banks and the advances made by the subsidy banks and financial institutions are put together, then, the ratio of the priority sector will not stand at 40 per cent; it will be less than that. As far as the interest is concerned, I must tell you how the Development Financial Institutions are working in India. In the case of the IDBI, in March, 1998, its NPA was Rs.5,101 crores, while in March, 2001, it stood at Rs.10,880 crores. In the case of the ICICI limited, it was Rs. 2,811 crores in March, 1998 and in 2001, it was Rs.5,988 crores; in IFCI, in 1998, it was Rs.2,663 crores while in 2001 it was Rs.6,077 crores and, lastly, in the case of IIBI, it was Rs.302 crores in 1998 and in 2001, it was Rs.1,021 crores. So, within a period of three years, the NPA has enhanced from Rs.10,877 crores to Rs.23,966 crores. It goes to show how the industry has taken the money of the people who are working from dawn to dusk in this country.

Madam, I want to tell you another thing and that is regarding the Omkar Goswami Committee Report about the industrial sickness and the corporations' restructuring. There are sick companies as well as sick banks. And there are unpaid workers. But there are hardly any sick promoters. Workers were not able to get optimum wages that they ought to get. But, Madam, there are hardly any sick promoters. This is the financial condition. This is the situation in which our industrialists are working in this country. Madam, I tell you that all NPAs do not mean that there has been fraud. But, at the same time, all fraudulent transactions lead to and result in NPA. Therefore, Madam, it has to be looked into. There are two types of defaulters--wilful defaulters and genuine defaulters. We have to find out, and this is the purpose for which this Bill has been brought before us. I would say, the genuine defaulters should not be harassed. I say this because, when some Acts are passed by this august House, the implementing agencies sometimes terrorise the people, those who had not done any harm to the nation. Therefore, we have to be very careful. Then, in regard to one-time settlement, Madam, the banks are not able to see the ground reality. Now, when comes to a situation of lay-off or closure, how they made the one-time payment, how can they pay the lump sum, unless the industry is functioning? Unless that particular unit is in operation, nobody will give money. Therefore, in many cases, it may not be possible

to make one-time payment. Then, in reference to ARC, Madam, I tell you, by merely passing this Act, we cannot achieve the purpose for which it is intended. For example, the State Financial Corporations are having the powers, what we are proposing to give through this Bill. Already, the State Financial Corporations are having powers but they are unable to do it, what we are intending to do by this Bill. Therefore, Madam, this is totally a different one. Madam, we have to compare with other countries; the South East Asian countries. Here, anybody can start an ARC. Suppose, the secured asset is worth Rs. Ten crores. Now, only 15 per cent is necessary for starting an ARC, an Asset Reconstruction Company. Fifteen per cent means one-and-a-half crores. Out of one-and-a-half crores, the promoters have to invest only ten per cent of that. It is mentioned in the Rules. With Rs. 15 lakhs in his pocket, a person can form a company through which he can take over assets worth Rs. ten crores. What will happen then? In Malayasia and Korea, it is tackled in a different way. In Malayasia, there is an organisation, called 'DANAHARTA'. Madam, in Korea, there is another agency, called the Korean Asset Management Company or 'KAMCO'. These are actualy governed by specific acts. It is not so here. Here, hundreds of ARCs will come up. What will be the position then? Madam, we cannot compare ourselves with the East Asian Countries or with the USA. In the East-Asian Countries, the loans are secured against the real estates that took commercial real estates in East-Asian Countries. Here, in India, the problem is not with real estate, but with operating business. Therefore, there is a lot of difference between a real estate and the operation of a business. What is applicable for South Korea or Malayasia is not applicable to India. It has to be seen in a different context. Madam, I want to know from the Government of India whether the UTI has approached the Government of India for coverage, through changes in the Ordinance. Has the UTI approached the Government of India to include it in this Bill? If so, what action has been taken by the Government? That is what I want to know. Then, there is a doubt. Let me quote from the *Financial Express*. It says, "But while section 5(4) provides for saving of pending proceedings, section 13(2) of the Bill doesn't make it clear whether the enforcement of rights under it precludes a creditor from filing a claim before the DRT. In fact, the impression conveyed is that of redundancy of the Tribunal". This doubt has to be cleared. (*Time-bell*) Only five minutes, Madam.

THE DEPUTY CHAIRMAN: You had only five minutes in all.

SHRI S. VIDUTHALAI VIRUMBI: Madam, I hope you will be considerate towards me.

There is another doubt regarding clause 13. This is on page 12 of the Bill. Clause 13 says, "No borrower, after receipt of the notice, referred to in sub-section (2), transfer by way of sale, lease, or otherwise (other than in the ordinary course of his business) any of his secured assets referred to in the notice, without prior written consent of the securd creditor". I want to know, if the documents are anti-dated, whether this particular section will cover that. There are some people who anti-date the documents. Once these documents are anti-dated, I think, this particular section cannot cover such frauds. Then, I would suggest that there should be preventive action alsc. How do we do that? Once a secured creditor has taken over a property, you cannot appoint new shareholders. But the person who has taken the finance can appoint the directors. In such a situation, the shareholders will not be left with any voice. Once the assets are taken over by a secured creditor, I would like to know whether the shareholders will be left with any voice. Then, the amount that is supposed to have been released, is not released, this Bill provides way for collection of the amount by approaching the DRT. I would like to know when a secured creditor can approach the DRT, why can't the same power be given to the DRT itself? This is my second question. Then, Madam, in America, there is an Act, called the Sarbanes Oxley Act of USA, 2002. This Act stipulates that all the CEOs of various industrial units should give in the Annual Report all that is of importance to a reasonable investor. Now, such type of a thing has not been provided in this Bill. Then, we have to see that the industry is in a viable (*Time-bell*) Madam, just one or two minutes more.

THE DEPUTY CHAIRMAN: I know, Mr. Virumbi, you have so much of knowledge. You are all the making of a Minister of Finance. But we have to abide by the time.

SHRI S. VIDUTHALAI VIRUMBI: Madam, I will finish in two minutes. Now, capital accumulation is necessary for development of industry. For that, domestic savings are essential. For making savings, if people go to private institutions, they may get more interest, but they will be in danger of losing their principal amount. If they want to keep their principal amount safe, they have to really go to the banks. But, now, the banks are also

going to be privatised. So, in whom should the people trust, for depositing their savings? Therefore, the question of privatisation of banks should be considered carefully, from this point of view. Secondly, India is in an agricultural country. Unless agriculture is given the priority, we will not have domestic resources. If there are no domestic resources there wil be no industry. If domestic resources plus the services-led income--agricultural income and the income from IT--are pooled together, even though it is possible, it will be difficult to achieve the objectives. In spite of it, I would say that the intention of the Bill is very good. It is the first attempt since Independence to see to it that money is recovered from those people who have taken the money of the common man and as well as to put in the Government coffers. I support this Bill. Thank you vey much, Madam.

THE DEPUTY CHAIRMAN: Thank you. With so many objections, you are supporting the Bill. Now, Mr. Santosh Bagrodia. आप कृपया समय का ध्यान रखिए।

SHRI SANTOSH BAGRODIA (Rajasthan): Madam, I rise to oppose the Ordinance which was promulgated by this Government on 21st August, 2002, but I support the Bill on the same subject. Madam, this Ordinance was promulgated on the 21st August, 2002. It is hardly two months now. I wonder what the Government has achieved by promulgating this Ordinance. These NPAs are not happening overnight. This has happened during the last fifty years, and the hon. Minister could not wait for two months to bring this Bill regularly here. This practice of controlling the country for ruling the country through ordinances, I don't think, is in the fitness of things when there is hardly any emergency like this.

Madam, I would like to explain, in very brief, how loans are given. Loans are given to any entrepreneur, whether small, big, PSU or private. He has to make a proposal, which is approved by an expert consultant, and the consultant is also approved by the loan-giver, by the bank or the institute. Then that proposal is further approved by the experts of the institute itself. They look into the viability. The Government gives the licence to put up that kind of a unit in any part of the country. The Government decides the need for such a unit for the benefit of the community at large. After all these considerations, these loans are sanctioned. These institutes are supposed to monitor it. A number of assurances are given. I will give one example here. In no-industry areas,

a log of industries have been developed. In fact, it was a theory in our country that every State wanted to have every industry whether it is economically viable or not. They started luring the entrepreneur by giving them all kinds of facilities like land and power. Whether they kept their commitment or not, is a separate issue. Now, for doing all this, the entrepreneur is lured to get into that kind of a system. After he has put up the industry, after he has taken up the entrepreneurial risk by putting up that kind of an industry, what has happened? Look at 90 per cent of the small-scale industries in the country which are closed today. Why are they closed? it is because the whole basis of starting those units was subsidies, either for raw material, in a quota system, or different kinds of facilities on sales tax, excise, etc. Slowly, everything is withdrawn. One fine morning, everything is withdrawn and you then tell them that they should compete with the sharks from either inside the country or outside the country. how can you expect a small soap manufactuere to compete with the Hindustan Lever which is the leader in the world, which is based in our own country? you put the small fish in the pond and then tell them that they should compete with them. They become NPAs. Madam, through you, I would like to bring to the notice of the hon. Minister that after collateral securities are taken, personal guarantees are taken, residential houses are mortgaged, then these loans are given. I don't talk about how much percentage is taken by different officers in different institutes for extending this kind of a loan. Those officers have gone. They are nowhere on the scene. They are not responsible. I believe, the hon. Minister has mentioned, yesterday, that there should be lender's accountability also. I understand, he would, probably, bring a Bill on lender's accountability. Where is the lender's accountability in this Bill? Have you gone into the details as to why those officers have approved this kind of proposals? Why have these officers given loans in the beginning? Why have these units gone sick? Madam, there are various reasons why HPAs are created. Certain changes in the policies of the Government are the greatest reasons why NPAs are created.

Look at the sugar industry today. When there was glut in the sugar market, when there was surplus sugar in the country, this Government started importing sugar without imposing duties. Then you hold the entrepreneur responsible for this! Is it fair? What is happening today because of your wrong policies? In U.P. and Maharashtra, the sugarcane

is being burnt. What would you do? Will you kill all those farmers? Will you declare all farmers as 'NPAs'? The farmers also have taken loans. The poor farmer has given his house, his tractor, his small holdings and everything else to the bank; against that only has he taken the loan. Are you going to re-create them for him? What is the loan amount? Rs. 1 lakh! What is Rs. 1 lakh today? Rs. 1 lakh or a hundred thousand is a peanut today. Probably, the MPs' basic salary is much more than one hundred thousand rupees today. I can't imagine; just for Rs. 1 lakh, everything of a farmer, everything of a small-scale industrial entrepreneur is sold out under the provisions of this Bill. This needs to be looked into. Because of the Government's policies, if this industry has gone down, or because of this the NPAs are created, then that should be treated differently. We have to change the policies. We have to create a situation by which the industries can survive.

I will come to the creation of a reconstruction company, a little later. Will it buy all the properties and run the industry or business? No, neither this company nor the Government is capable of handling that. That is why the PSUs are being sold today. So, they will only sell those; they will sell their assets, or equipment as scrap, or they will sell the land to build a hotel over there. But they will not sell the unit as a unit. If there is a condition that a sugar unit would be sold only for manufacturing sugar, I have no objection. At least, the set-up, which has been created for the industry, should not be destroyed. It can't be used for something else.

We must put conditions such as if any industry is sold, then the purchaser of that must revive that industry. Then there is a purpose. Then only will we ascertain whether the seller, who was keeping that industry thus far, had played foul and that is why he could not run that industry because of that foul play. But if the industry itself is not being run, and, instead, you just sell its land as a landlord, then it is not reconstruction.

Due to globalisation, many changes have been made, without any proper programming. I have mentioned about big fish versus the small fish. What has hapened to all the agro-industries? I can talk about tea also. I think, we would be discussing, in a few days, on the happenings of the tea industry. In the entire South Indian tea industry, people have run away from tea gardens. My West Bengal friend would tell you on the bad shape of the Bengal tea gardens. Even the Darjeeling Tea, the world famous

tea, is also being closed down. Assam is suposed to be a little better, and it is somehow moving from one step to the other. But the production has gone down by 35 million kgs. That means it is 20 per cent than what the tea production was last year. Why? Despite that the prices are going down? Who will be held responsible? Do you think that entrepreneur is responsible for these NPAs? No. It is circumstantial. It is because of the globalisation; it is because of many other issues, which include, the Government's policy also. Those industries cannot be straight away taken over by these securitisation companies. What will happen to the jute industry? What will happen to the textile industry? We are going to discuss cotton in this House tomorrow because farmers are dying. Are you going to take over all these industries under this law? Or, are you going to be selective? You will take over only those which are not with you or the officers will decide and they will pick and choose those who do not satisfy them. How are you going to handle this kind of a situation? Is it the right time to bring this kind of a Bill when we have gone in for globalisation? Now I come to the change of technology. Madam, 95 per cent of the IT companies in the country have gone but because technology has changed. We do not have to see only Premji; we do not have to see only Infosys. We have to see lakhs of IT companies which are not on the map of India any more. Why? It is again because of the change of technology. Earlier the technology used to take five years or ten years to change. But now it takes only six months. Can we keep pace with the kind of a change in technology? We can't. If we cannot, then do you hold these small entrepreneurs in the country who have come forward with their life savings as an entrepreneur, that whatever is left over for no fault of theirs is further wiped out by this policy of the Government because of this and that goes into the pockets of the bureaucrats/officers who are going to dispose of this reconstruction company? What will hapen? The companies which the hon. Minister has mentioned, they will take away all the assets? What are they going to do with these assets? You want to create more employment for them. You want to have more officers to handle it from the same banks which are already overflowed with employment. They have got excess employment. Are you going to use the same people? That question also I would like to know. Of course, there are entrepreneurs who have gone into NPAs because of manipulations and frauds. These case should be handled very strongly and very strictly. You should show no mercy on those people. If there is any fraud proved, there should be no mercy on them. *(Time-*

bell) I do not have second speaker....*(Interruptions)*...If my time is over, then I will conclude.

THE DEPUTY CHAIRMAN: Your party's time is over and not your time....*(Interruptions)*....You have long years to live...*(Interruptions)*... But the party's time of 15 minutes is over.

SHRI SANTOSH BAGRODIA: If my party's time is over, I will sit down...*(Interruptions)*...

उपसभापति: ओवर तो हो गया है।

श्री संतोष बागड़ोदिया: ठीक है, मैं जल्दी से समाप्त करता हूं। Okay, Madam, I will quickly point out because yesterday Shri Jaitley suggested that already there are rules under which you can take over assets. Then why this is Bill? He told about legislations which are already there. If they are already there, then why do you want this legislaiton? I just fail tc understand this kind of a situation, when an intelligent Member like Mr. Jaitley says like this. I am not going into the question of 75 per cent ceilling. It has been mentioned many a time. I will make only a few suggestions. The first suggestion is that this Bill should not cover the small-scale industries without a limit of an amount involved. Please save those lakhs and lakhs of industries which are already in trouble. I am not talking about saving those people who have taken away Rs. 6000 crores from banks. I am talking about those who have taken a few lakhs. They may be small, small carpenters who have taken Rs. 1 lakh or Rs. 2 lakh. It is nothing. At least, save them. Moreover, you do not have the modalities to handle this. Only some of them will be in trouble and they will be in trouble because this a wrong Bill. Please investigate first whether the unit can still be viable. Put up a light reconstruction; put up a viable company. Let him put up another company. Let him study whether this can be made viable. if it can be made viable, I am not saying, "Leave it to the present owners." Give it to somebody. But, I still want that the unit should survive. That is the most important factor in my thinking. If it is not going to solve the problem, there the entrepreneur is killed. Let him be killed. But, don't kill the country. Do not kill the assets which have been created by the countrymen. If it is not due to the fault of entrepreneur, it should be looked into separately. This point may also be considered. All sales should be done in an open auction if at all anything is going to be sold. I know that I am not going to listen to the reply. I know that this Bill is going to be passed because I am also going to support it. But, after that, please,

when you frame the rules, frame a rule that whatever is sold, should be sold in an open auction with absolute transparency. And, once it is sold, if the loanee, in the next three months, can still get a better price, he should be given the first chance either to buy it back or sell it to others if he can pay 5 per cent or 10 per cent or whatever amount you fix as per the rules, for getting a better price. I am not talking about the lower price no facilities. But the man who has created that asset be given a fair deal if he can get a better deal.

THE DEPUTY CHAIRMAN: There are also women entrepreneurs ...*(Interruptions)*... I tell you that the women entrepreneurs are more in trouble than men because of globalisation.

SHRI SANTOSH BAGRODIA: Madam, I fully agree with you. You have made a very valid point. I appreciate it. For this, you will have to give me a few more minutes.

THE DEPUTY CHAIRMAN: No, no. I will not give. I will take those extra few minutes to speak to the Minister in my Chamber.

SHRI SANTOSH BAGRODIA: Madam, now, I will only talk about women entrepreneurs.

Madam, we have have an extremely good example of Lijjat Papad. Even Lijjat Papad is in trouble. In Lijjat Papad, from down below to the number one position, all are women. This is the only organisation in the world started by women, run by women and still controlled by women and the entire benefit goes to women. Even this organisation is in trouble because of these kinds of rules. A number of units are having NPAs. Hence, I request the hon. Minister that, at least, the women organisations, in the small-scale sector, where women are involved, may be saved. But, there is a possibility that a number of men will put women in their jobs.

THE DEPUTY CHAIRMAN: I was director of Lijjat Papad. So, I know all that.

SHRI SANTOSH BAGRODIA: They are very intelligent people. They know how to go round the rules. But, still, if women entrepreneurs, have started a unit and taken loan, please be more fair to the fairer sex so that they are not put into this hurdle of a big ocean and get completely destroyed.

उपसभापति: अब वीमैन पर भी बात हो गई है, अब आप बैठ जाइए।

श्री संतोष बागड़ोदिया: मैडम, अब मैं केवल लास्ट प्वाइंट बोलूंगा। I would also like to draw the attention of the hon. Minister to one more issue. Madam, I think, the RBI was formed in 1935 and the State Bank in 1949. Since then all these banks have the NPAs. These NPAs have increased only after they were nationalised. When they were private banks, the NPAs were much less. Whatever it might be, when we talk about Rs. 60,000 crores of NPAs, it sounds very big. No doubt, it is a very big amount. But, this Rs. 60,000 crores includes interest. The real capital, probably, involved is only between Rs. 20,000-25,000 crores. This is out of ***kharab.*** I do not know. I do not even have the figures. In the last fifty years, if you look at the total turnover, lakhs of crores of rupees of transactions have taken place and the amount that is left out of these transactions is NPAs. It will be 0.0001 per cent of the total assets. Even if you look at the IDBI record, you will find only 1 per cent of NPAs to total assets. In the case of ICICI, it is 5.2 per cent. And, in the case of IFCI, it is 21.1 per cent NPAs to total assets. Somebody who has a better management, have only 5.2 per cent. In some banks it is 1.2 per cent or 1.3 per cent. So, this is not as large as it is being projected. It is, definitely, bad. We have to handle it. But, in fifty years, this is not a large amount. Now, we should handle it better. Sir, before concluding, I would, once again request the hon. Minister to please make rules so that our assets, which have been created in the last fifty years, are not destroyed, and the production does not become zero in any particular set up, or in any particular industrial set up. Otherwise, there will be other problems; and, to handle those problems, you will have to bring forward other rules and laws.

उपसभापति: लाला लाजपत राय जी, आप तो बहुत समझदार हैं, 6 मिनट में बोल ही लेंगे।

लाला लाजपत राय (पंजाब): आखिर में समय तो कुछ बचना चाहिए।

मैडम् डिप्टी चेयरमेन, मैं आपका आभारी हूं कि आपने मुझे बोलने का समय दिया है। कल जितने भी सांसद बोले मैंने उनको बड़े ध्यान से सुना है। उन्हें स्ट्रेस इस बात पर ही था कि हम एन॰पी॰एज॰ का क्योर कैसे कर सकते हैं। मैं एक व्यापारी रहा हूं, मेरा इस बातचीत के साथ, इस काम के साथ सम्बन्ध रहा है-बैंकर्स के साथ मिलना, व्यापारियों के साथ मिलना। मैं उस बात के ऊपर ज्यादा विचार नहीं बताऊंगा। मैं यह बताने की कोशिश करूंगा कि एन॰पी॰ए॰ या बैड एकाउंट जो आपरेशन में नही होते-इरेग्यूलर एकाउंट, यह पैदा कैसे होते हैं। मैं यह समझता हूं कि इस बिल को लाने का मकसद एन॰पी॰ए॰ कम करने का हिसाब है। जब भी कभी व्यापारी या इण्डस्ट्रीयलिस्ट

काम शुरू करने की सोचता है या बढ़ाने की सोचता है तो वह किसी फाइनेंसियल इंस्टीट्यूशन या बैंकर के पास जाता है। उसको अपनी प्रोजेक्ट रिपोर्ट देता है। प्रोजेक्ट रिपोर्ट किसी चार्टर्ड एकाउंटेंट से बनवाता है। सबसे पहले बैंकर का या फाइनेंसियल इंस्टीट्यूशन का यह रिएक्शन होता है कि आपने बहुत बढ़ा चढ़ाकर बात की है इसको कम करना चाहिए और वह बहुत केसेज में कम भी करते हैं। वह उस एमाउंट को कम करते हैं जो एडवांस करना है। जो प्रोजेक्ट रिपोर्ट को पेश किया जाता है तो बैंक वाले उसकी एप्रेजल करते हैं कि यह वाएबल है। जब उसको पैसा दिया जाता है तो पैसा देने के बाद जो काम उस फाइनेन्सियल ईंस्टिट्यूशन या बैंकर को करना चाहिए वह है उसकी मानीटरिंग कि जिस काम के लिए पैसा दिया गया है क्या उस काम में सही रूप से लग रहा है। मै आपको बतला सकता हूं कि ऐसे भी कई लोग हैं जो पैसा लेने के बाद चैक काट देते हैं चार लाख का, पांच लाख, 10 लाख का कि उनको सेलेरी देनी है, वेजिज देनी है तथा उसके पीछे बैकर लिखवा लेता है। सचमुच में उसके कारखाने में जाकर कभी नहीं देखता है कि उसके पास इतने लोग हैं काम करने वाले जो चार लाख, पांच लाख या सात लाख की वेजज बनती है। इस हिसाब से जो मॉनीटरिंग है वह बहुत डिफेक्टिव है। मेरा यह कहना है कि ट्रांसपिरेंसी को ध्यान में रखते हुए ऐसे लोग जो प्रोजेक्ट रिपोर्ट को ओ॰के॰ करते हैं कुछ कंसीड्रेशन के साथ या लापरवाही के साथ उनको भी इस काम के लिए जिम्मेदार ठहराया जाना जरूरी है क्योंकि उन्ही की जिम्मेदारी के हिसाब से जो बैंकर हैं या फाइनेंसियल इंस्टीटयूशन हैं, वह अपना पैसा देते हैं। लेकिन बाद में उनकी मॉनीटरिंग न होने के कारण, देखभाल न होने के कारण पैसा जाम हो जाता है। उसका मतलब यह होता है कि वह बैड एकाउंट हो गया, एन॰पी॰ए॰ हो गया। अब जो एन॰पी॰ए॰ हो गया है उसमें कुछ विलफुल डिफाल्टर होते हैं। सारे लोग विलफुल नहीं होते। कुछ परसंटेज विलफुल डिफाल्टर होते हैं। लेकिन विलफुल डिफाल्टर के कारण बाकी सब डिफाल्टर को उसके कारण पकड़ा जाना या रगड़ा जाना यह मुनासिब नहीं है। आपको याद होगा कि एक-दो वर्ष पहले मैंने उस वर्ष के वित्त मंत्री जी से एक स्कीम बात करके बनवाई थी-वन टाइम सैटिलमेंट की। स्कीम बनाने में काफी देर लग गई। रिजर्व बैंक की गाईड-लाइंस तैयार हो गई। उसकी बदौलत जो देश के लाखों डिफाल्टर माने जाते थे जो विलफुल नहीं थे। उन्होने कर्जे से अपने हाथ धो लिए। लेकिन जो कंसर्न्ड बैंक मैनेजर बॉरोयर से नाराज थे तथा उससे उनके रिश्ते अच्छे नहीं थे तो ऐसे लोगों को विलफुल डिफाल्टर करार दे दिया गया, तो वे उस स्कीम का लाभ नहीं उठा सके। बैंकर्स ने उस वन टाइम सेटलमैंट की स्कीम को बिल्कुल फैथफुल्ली इंपलीमेंट नहीं किया। मेरे पास ऐसी बहुत सारी मिसालें हैं जहां पर वे वन टाइम सेटलमैंट के लिए गए, उनसे कहा गया कि तुम्हारे से पचास हजार लेना है, तुम्हारी प्रोजेक्ट सेक्योरिटी हमारे पास तीन करोड़ की है, हम आपको कैसे छोड़ देंगे। ऐसी-ऐसी मिसालें हैं। मैं समझता हूं कि जो डिफाल्टर हैं, उनको एक बार फिर से, जो बिल्कुल डिफाल्टर कहलाये गये, जो बिल्कुल डिफाल्टर नहीं थे, उन लोगों को उस वन टाइम सेटलमैंट का लाभ पहुंचाने के लिए एक बार फिर उस स्कीम को लागू किया जाना चाहिए। अगर सबको लाभ पहुंचाने के लिए किया जाए तो बहुत

अच्छा रहेगा। क्योंकि बिल्कुल डिफाल्टर या वैसे डिफाल्टर की अगर हम कानून के हिसाब से उसकी जायदाद छीन लेंगे तो उससे कई प्रकार के झगड़े पैदा होंगे। इसलिए मेरा एक निवेदन है कि जो झगड़े सुलटाने की बात है, उसकी जायदाद काबू में करना मुश्किल नहीं है, आसान है, लेकिन उसको मार्केट रेट के हिसाब से कोई बैंक कीमत नहीं दे सकता है। जब लोगों को मालूम पड़ जाता है कि यह झगड़े की जायदाद है तो उसे पब्लिक से पैसा नहीं मिलता है, आधा पैसा मिलता है, केवल 60 परसेंट पैसा मिल पाता है। मैं एक निवेदन मंत्री जी से करना चाहता हूँ कि जहां आप इस बात के ऊपर विचार करें कि बिल्कुल डिफाल्टर, जिनको बैंक के मैनेजर की हिदायत के अनुसार कहा गया है, उनको भी एक और मौका दिया जाना चाहिए। उनको मौका देना अच्छा रहेगा, लोग लाभ उठाना चाहते हैं, हिसाब करना चाहते है हाथ धोना चाहते हैं और जो जायदाद सम्भालने की बात है, क्योंकि पैसा बैंक की नीलामी से, बैंक के निगोशिएशन से नहीं मिलेगा। मैं उसके लिए एक उदाहरण दे सकता हूं। लुधियाना में एक जायदाद है, एक बैंक बोरोअर है, उसकी कुछ प्रोपर्टी कोलेटरल सेक्योरिटी दी गई, कुछ बाकी थी जो नहीं थी। जो बाकी थी उसे किसी सम्प्रदाय ने, उसके करीब जिनका अड्डा था, उन्होंने वह जायदाद लेने के लिए उससे निगोशिएट किया। उसकी कीमत लगभग ढाई करोड़ की बनती थी, बैंक को पता लगा कि ऐसे-ऐसे यह बेचाने वाला है, बैंक ने किसी के साथ जो एक करोड़ सैंतीस लाख रुपये उस बोरोअर से लेना था, वह प्रापर्टी एक करोड़ सैंतीस लाख में बेच दी जबकि उस प्रापर्टी की कीमत ढाई करोड़ रुपये थी। ऐसे ही किस्से फिर दोहराये जायेंगे, लोगों के साथ इन्साफ नहीं होगा। मैं यह कहूंगा कि इन्साफ करने के लिए कि जिस बोरोअर की प्रापर्टी ली जा रही है उसको 15-20 दिन का मौका दिया जाना चाहिए कि वह उसके लिए कोई ग्राहक तलाश कर ले। इसके बारे में, मैं समझता हूं कि किसी भी सेक्योरिटी एजेंसी को लाभ पहुंचाने के बजाय अगर बोरोअर को फायदा पहुंचे तो अच्छा रहेगा। यही बात कहकर मैं अपनी बात समाप्त करता हूं।

THE DEPUTY CHAIRMAN: Generally, I announce the time so that Members stick to the time allotted to them. Mr. Gupta, eight minutes have been allotted to you. So, you can prioritise your points.

श्री प्रेम गुप्ता (बिहार): मैडम, आठ मिनट में से तो दो मिनट आपने ले लिए हैं।

उपसभापति: नहीं, अब आपका टाइम शुरू होता है।

SHRI PREM CHAND GUPTA: Madam Deputy Chairman, growing NPAs is a matter of concern to all of us. These NPAs not only destroy the economy of a country, but also have a cascading effect on millions and millions of people. We had seen the downfall of UTI 20 years ago. Then, 12 years ago, again the same thing happended. And, recently also, we

saw it in the year 2000. Did we learn any lesson from that? In my opinion, we did not learn any lesson from our past experiment. Today, our prime lending institutions, like the IDBI, the IFCI and the ICICI, are loaded with Non Performing Assets. Recently, there has been an exposure in Japan where it was found that loans worth billions and trillions of yen were extended to various borrowers, which could not be recovered. These NPAs in Japan had shaken the Japanese economy. Madam, this move, which the Government is taking in order to help the banks and financial institutions to recover their bad loans, through acquisition, or, resumption of property or assets or encashing bank guarantee of the promoters. First of all, I would like to say the large promoters do not give personal guarantee. It is only the samll investors, who give bank guarantees. Secondly, we already have the provision whereby assets are mortgaged when the moneys are borrowed from the financial institutions or banks; and they have every right to take over those assets. But the Question is what expertise do these banks have or financial insitutions have to manage those acquired assets? These companies will be further made sick and the entire investment process will go down the drain.

Madam, once the assets are taken over, the promoters would wash off their hands, because they would say their assets have been taken over, So, it is for the financial institutions or banks to decide as to what should be done with those assets. They will start employment exchange work. The banks or financial institutions will look forward to the retired personnel to manage those assets. These retired personnel were a party while giving loans against the assets. This is a classic example. Mr. Finance Minister, this morning itself we had a question in which a reference was made to the Tarapore Committee. Perhaps, you would remember that Mr. Tarapore himself was the Deputy Governor of the RBI during 1990—95. At the same time, he was on the Board of the UTI, when billions on rupees were given as loans to various industrial houses, which are termed as bad assets in the form of NPAs. My point is about the accountability. The man, who was responsible, is today looking into the affairs of the company. He has been appointed to give a report, as to what went wrong with the UTI. He had been a party to that. We have to see at the root cause of the Problem.

Madam, there are two types of NPAs. One, the wilful defaulters and the other are the defaulter, who are the victims of circumstances. When

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an industrialist, or, an entrepreneur sets up an industry, he looks at the market situaton and the Indian economy. Now, the work economy has opened up. It is turning out to be one market. Things can go worong. So, you are giving power to certain people to take over the assets of a company which had been established in good faith. But, at the same time, there are wilful defaulters. You would be surprised to note that 60 to 70 per cent of the loans which are NPAs, are repetitive loans. They are not the first time loans. These repetitive loans, in spite of the the fact that that they were borrowed loans of the earlier times, had already been declared as NPAs. Again the company has been given further loans. The question is: who is responsible for this?

Mr. Finance Minister, I congratulate you on your idea of intruducting the Lenders' Liability Bill. In fact, this Bill should been brought along with this Bill so that both could have been considered simultaneously. As a matter of fact, the present Bill is a right move. We support this Bill. We say this move is in the right direction. You take over the units, where the loans borrowed from the banks have been declared as NPAs. But we have to be very cautious and we must make sure that those who extended the loans must have some sort of accountability. Today, there is no accountability. A company goes to a Chartered Accountant. He would prepare a nice project report. It would bring heaven on earth, go to the financial institutions and through arrangement they will get the money and after two or three years, when the money is not paid, the bank would declare this monay as NPAs. An amount of Rs. 87,000 crores of NPSs, almost $ 15-16 billion, it is not a small money. A lot of development work could have been done, if this huge amount of NPAs was not there. I would submit to the Finance Minister to take into account that assets can be taken over, but, where is the expertise with these people to manage these companies. These companies will again become sick. So, with this, I would submit and I feel that the time allotted to me, more or less, is over. Madam, all these factors should be taken into account. Before we do anything, the accountability is the key. If the acountability is there, I am sure, sixty per cent of the problem would be resolved. Without accountability, you can go on taking over the assets. The assets are under-valued. They have no use. With this, I would submit to the hon. Finance Minister that this Lenders' Accountability Bill may also be brought forth at the earliest. Thank you, very much.

THE DEPUTY CHAIRMAN: Shri V.V. Raghavan. You have only five minutes.

SHRI V.V. RAGHAVAN (Kerala): Thank you, Madam. This legislation is long overdue. I welcome it with some reservations. There is a provision for setting up Asset Reconstruction Companies with the RBI registration. The responsibility of recovering NPAs and debts rests with the banks and the financial institutions. If they so desire, they can set up Asset Reconstruction companies. But registering a private company for this purpose, is nothing but entrusting the keys with the thieves. So, I am against setting up Asset Reconstruction Companies in the private sector. What is needed here is, stringent action against the wilful defaulters. Wilful defaulters, everbody knows, who have cheated the banks and the financial institutions, by filing false securities, declaring sick units and try to escape under the cover of BIFR. This is prevailing nowadays. So, stringent action should be taken against wilful defaulters and they must be put in the prison. The only thing they fear is, prison, If you put some of these wilful defaulters behind bars, you can recover much of these NPAs and debts. Why are you hesitate on that point? Not only these NPAs, for the last few years, we have been discussing scams after scams. The entire financial structure of the country is blackened with scams. Take the case of the UTI. Go into the affairs of the IDBI. All these financial institutions are blackened with Scams, and yet, no action has been taken against these institutions all these years for all these Scams. And excuse me, if you see carefully, you will find, that almost, al the Scams come from the corporate sector. For instance, take the case of the UTI. What happened with the Reliance? How many thousands of crores of rupees have gone into the pocket of the Reliance company from the UTI, and the owner of the Reliance industry is being worshipped in India now? If a coprorate house earns for the family Rs. 60,000 crores, he is worshipped even by the VIPs. Money has been collected, whatever be the means. The more money a person gathers from anywhere, from the masses, from the public sector, the more he is worshipped in this country. No accusing finger is pointed out towards any of these culprits. Madam, the extent of NPAs today is Rs. 87,000 crores. The Hong Kong people say that its mangnitude is Rs. 1,50,000 crores. Whatever it is, whose money is this? It belongs to the poor middle class people. It is their hard earned money, which has been deposited with these institutions. That money is being looted. I am glad to inform the House that once the hon. Finance Minister said that

these NPAs are a sort of loot. That is a truth. What are you going to do to get hold of them? I repeat the words, 'to get hold of them,' stringent action is needed. Please put some of the wilful defaulters behind the bars. Many such people escape with the help of false statements, by filing false securities, and with the help of the BIFR cover, Get hold of them. These wilful defaulters are cheating the poor people by playing fraud on them. So, unless we take these things as a crime, a criminal act, and provide for a stringent action against them , nothing will happen. In the United States, quite recently, when the Enron Scam and other Scams came to lime light, with higher ups involving in these Scams, the Senate immediately brought in a legislation, and put some of the higher ups behind the bars. why is this not followed in India where a lot of Scams are occurring? That is the reason why these people are roaming about freely in the society. My learned friend, Shri Prem Chand Gupta, was referring to accountability. Have you ever taken any steps in regard to accountability? In all these Scams, the higher ups are involved, and they know how to cover up their misdeeds. So, I request the hon. Minister to take stringent action against the wilful defaulters. then only this legislation has any meaning. When we set up the Assets Reconstruction company, for heaven's sake, do not register any private company.... (*Time Bell*). Madam, I will finish within a minute. Banks can have it. Other institutions can have it. (*Time Bell*)... Madam, we are only five here. But, we are one of the six National Parties recognised by the Election Commission. Madam, our financial institutions are functioning directly under the Finance Department. Any misdeed-the responsibility is directly on the Finance Department. When things have gone wrong in the UTI, and when it is under JPC inquiry, how can you think of bifurcating it just now, before the report comes? How can you change the entire structure of UTI, before the JPC report is given? Is it a proper step? And, we know that the most essential task now, before the Finance Minister, is to have a social control on our financial structure, the entire structure. At this juncture, if you lose we canot build up a viable financial set-up in our country. Whey are you thinking of diluting our banking system, by bringing in foreigners? This is a time when our development works, our national wealth, can be protected only by social control on the financial structure, not only in the case of banks, but the entire financial structure. If you allow the foreigners to come, to control our assets, the banking assets, if you allow the private sector to control this vital sector, how can we build up a new India? I am not against any private

entrepreneurs, but then, we have seen what is happening the world over. Even in the USA, you know what happened to Enron, what happened to Worldcom, what scams are taking place. People at high palces are involved. Therefore, you cannot entrust the private sector with the country's assets. In spite of all the lessons we have learnt, if you are going to dilute our entire financial structure, selling the assets of the banking sector to private parties, and giving management of these institutions to outsiders, is it proper, hon'ble Prime Minister? We have seen the result of privatisation of the VSNL. Two years before, it was a prestigious institution. We were all very glad. But, within two years, you sold it to the TATAs. And, what are the TATAs doing now? The most valuable reserve fund of VSNL is being diverted to Tata Telecommunication Companies, before our own eyes. What is happening in this country? I do not want to go into the issue to disinvestment. I have another opportunity on Friday. But I would, again and again, appeal to the hon'ble Finance Minister not to hand over the financial structure, the most important structure, to the private companies. the past lessons should not be forgotten. Madam, I welcome this Bill. But, please, ask the RBI not to register any asset reconstruction company in the private sector.

DR. T. SUBBARAMI REDDY (Andhra Pradesh): Madam, I am grateful to you for giving me an opportunity to speak, as the last speaker from the Congress Party. Madam, I welcome the Bill, but, at the same time, I would like to seek certain clarifications from the hon. Minister on important points. Of course, the idea behind bringing this Bill is that they want to strengthen the hands of the financial institutions and the banks in recovering NPAs from the defaulters. We welcome it, But my colleagues have been saying that there are some defaulters cheating the Government and the financial institutions; I agree. But we canot generalise that everybody is a cheater and everybody commits a wilful default. Such sort of generalisation is very dangerous. We cannot say like that. We have to keep in mind that there are a number of Industries which have become sick which have become defaulters, because of certain circumstances.When anybody starts an industry, he keeps in mind the demand and supply theory. If he changes anything, the total system fails. Therefore, you must make certain provisions in this Bill for that. If any genuine facts come to the notice of the banks and other financial institutions, they should analyse them. You cannot just give sweeping powers to the financial institutions. You cannot simply say, "Give six days'

notice and go and acquire all the assets and auction them in the market." If that is done, what will happen? If the head of a particular bank or a financial institution, either by mistake or by ignorance, takes action against a person, and if the person concerned does not have a democratic right to go to the court, it would by very, very unfortunate. The Bill says that a man has to deposit Seventy-five per cent of the money to the court if he has to challenge the action taken by a financial institution or a bank. That means, he is, actually, denied his democratic right. I request the hon. Minister to clarify whether it is justified to give a sweeping power to a lender, against an industry which is suffering badly, by taking away the democratic right of the industry to go to the court. Instead, give that industry some more time for restructuring. If all this is not taken into account, the Indian economy will collapse. It is going to be very dangerous. This is one thing. Number two; whenever they take action like this, the workers will become unemployed. You have not kept in mind that if genuine industries get stuck because of their economic problems, what happens to the workers. The Government cannot ignore the plight of the workers. The system is interlinked. There are wilful defaulters, but there are also persons who become defaulters because of certain circumstances. It is a rational thing. The Bill also says:

> "Provided also that on or after the commencement of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, where a reference is pending before the Board for Industrial and Financial Reconstruction, such reference shall abate if the secured creditors, representing not less than three-fourth in value of the amount outstanding against financial assistance....."

It is a very dangerous clause. Madam, I would like to bring to your kind notice another important fact. I do not say that everybody is genuine. At the same time, everybody is not a wilful defaulter. You have to analyse it. Suppose a genuine industry goes before the Board of Financial Reconstruction. Suddenly, they say, "Throw them out. Go and straightaway acquire their assets." What will happend to the industry and its workers? People are dependent on it. So, this point has to be taken into consideration. Number three; deposting 75 per cent of the money, to challenge any action of the banks and institutions, is also very impractical and very dangerous. I would be grateful if the hon. Minister explains to us as to how it is going

to be rational and help the system. Fourthly, the Ordinance came into effect a few months back. In the last few months, the Finance Ministry must have taken note of the practical difficulties being faced by these financial institutions; if so, I would like to know what action they have taken. I would be happy if he could inform the House about it. It would be very helpful in future also.

Lastly, Madam, I request the Minister to give us a clear-cut statement. This Bill, on the one hand, is, no doubt, bound to help the financial institutions in reducing the NPAs and collecting the money by taking action against the defaulters. On the other side, what is going to be the provision to safeguard the workers, the employees who are depending on the industries which have temporarily suffered a setback to the circumstances, the economic problems? And, where they have a chance with reconstruction, they will become all right. That point should also be borne in mind. So, if that is also borne in mind, that will be a great justice to the industry, to the Indian economy and also to the genuine people. Of course, telling is very easy and to implement the specific laws is very difficult. I fully agree. But, still I would appreciate it if the hon. Finance Minister, with his background, his personality tells us how they are going to do it. So, once again, I welcome the Bill. I will appreciate if these loopholes are filled and opportunity is not given to punish the unfortunate and the innocent people. At the same time, you must punish the people who are wilful defaulters. I agree with Mr. Raghvan and Mr. Gupta. Thank You.

THE DEPUTY CHAIRMAN: You wanted to add something.

लाला लाजपत राय: मैडम डिप्टी चेयरमैन, मैंने पहले जो बात कही है उसमें डिफाल्टर का सवाल आता है। डिफाल्टर में कौन विलफुल डिफाल्टर है यह बैंक मैनेजर के ऊपर छोड़ा गया है, जैसा पहले कहा। मेरा उसमें निवेदन यह है कि बहुत से लोग कर्जा लेने के बाद बड़ी मेहनत से, ईमानदारी से काम करते हैं, लेकिन सर्कमस्टांसेज की मार, रिसैशन के कारण या एक्सट्रेनियस सर्कमस्टांसेज जो होते हैं उनके कारण भी ईमानदारी से काम करते-करते डिफाल्टर हो जाते हैं, बैंक के आपरेशन बंद हो जाते हैं। मेरा उसके बारे में निवेदन यह है कि बैंक का मैनेजर जिसको विलफुल डिफाल्टर कहे उसको फाइनल नहीं मानना चाहिए। उसके लिए तीन आदमियों की एक कमेटी बनानी चाहिए। उसमें एक जुडीशियल सर्विस का हो, जो कि कम से कम सैशन जज से नीचे का नहीं हो, एक रेवेन्यु सर्विस का हो इन्कम टैक्स डिपार्टमैंट से लिया जाए और एक रिजर्व बैंक का नुमाइंदा हो। तीनों का जो फैसला हो उसके आधार पर विलफुल डिफाल्टर करार दिया जाना मुनासिब है। अदरवाइज बैंक मैनेजर के कहने के हिसाब से उसको फाइनली विलफुल डिफाल्टर कह कर बिल्कुल फांसी दे देना, यह मुनासिब नहीं होगा।

मेरा मंत्री जी से निवेदन है कि वह इस बात को ध्यान में रखें कि विलफुल डिफाल्टर कहना ऐसा है जैसे कि किसी को फांसी पर लटका देना। उसका बिल्कुल मार्केट में नाम नहीं रहेगा। इन शब्दों के साथ, मैं बिल का पूरा समर्थन करता हूं। धन्यवाद।

THE DEPUTY CHAIRMAN: Mr. Minister.

THE MINISTER OF FINANCE AND COMPANY AFFAIRS (SHRI JASWANT SINGH): Madam, we come to the final stage of the consideration of this piece of legislation. I am very grateful to all the hon. Members who participated in this discussion. I am also very grateful, Madam, to all the sections of the House for the support that the principle of the legislation has received from every body. Understandably, while extending their support, a number of hon. speakers had a number of issues as suggestions, as observations, as critical observations, also suggestions for improvement. I can assure all the hon. Members that the intent of the Government is not to trouble or to de-corporatise or to stop commercial trading or industrial activity. It is essentially to bring a piece of legislation which enables the lender to secure the lender's rights, and hon. Members have asked: why didn't you bring in the Lenders; Responsibility Bill alongwith this? After all, the Lender's Responsibility Bill is an idea that I have introduced and having introduced it, a working group was established. The working group of the Reserve Bank of India has already put into effect a number a measures as yardsticks, which, at the stage of requesting permission of the House for introduction of the Bill, I had already shared. Based on the experience of these yardsticks that we have already introduced, I have already assured the House that we will bring forward a piece of legislation and we will then give it to the House for its views. Madam, I would, cover as extensively and categorically as I can, all the issues or as many issues as the hon. Members had raised. But this may not be in the chronological order in which they were raised. The last two speakers raised a point relating to wiful default. As the hon. Members know, a declaration of default is not a arbitrary subjective act. Based on the recommendations of the S.S. Kohli Committee, the Reserve Bank of India has issued guidelines to the banks for defining "wilful default" clearly; and it has already advised the banks, where it is a wilful default, to take the strictest possible action, including criminal action, as warranted. But consideration is always given to that which is not a wilful default, which is on account of circumstances or on

account of inadvertence or factors beyond the borrowers control. The mover of the Statutory Resolution said that it would have been better if the rules and regulations had been provided, along with the Bill. I wish to inform the House that the Reserve Bank of India is already in the process. We had requested them to frame detailed regulations so as to regulate the conduct of this piece of legislation. I assure all the hon. Members that the regulations will ensure full transparency in regard to whatever we do.

There were two points raised about the appraisal of the value of the assets, as also the need to give 75 per cent of the due, before an appeal can be filed. I would like to read out the relevant portion, "It is true that the borrower has to deposit 75 per cent of his dues before he can approach the Debt Recovery Tribunal. However, there is a provision that the DRT can waive such deposits also, under this section". Now, there are contrary and conflicting views. One view that was expressed, is that 75 per cent is expropriatory; it is too much; it cannot be done. There was another view that was expressed. No doubt, there are various viewpoints. It should not be 75 per cent, but 100 percent. A third view was expressed that there should not be a provision here which enables the Executive to waive the provision of 75 per cent. I assure all the hon. Members that all these will be borne in mind and, when the detailed rules and regulations are ready, we will come back to this House, which is mandatory, and the hon. Members would recognise that they would be taken care of adequately. So also is the case with the sale of acquired assets. Now, it is very clear in the gazette notification itself, that the authorised officer may sell the moveable secured assets, under rules so and so, in the following manner; Through obtaining quotation from a party dealing in secured asset or otherwise interested in buying the asset or inviting tenders from the public or holding public auction or by privatisation. The options are there. It is not as if there is any arbitrary method for the disposal of the assets. Sir, this provision applies only to borrowers above Rs. One Lakh and borrowers below Rs. One Lakh are not covered by this provision. One of the hon. Speakers has said, "what is one lakh, it is only hundred thousand." You then suggested to him whereupon the hon. speaker who was then intervening said, it is chickenfeed. It is a very subjective approach. To some, Rs. One Hundred Thousand could be chickenfeed and in the larger sense, it is. But to others, when I share with the House the percentage of borrowers in the range, it will be realised that there are a large number of

borrowers who are not covered by the provisions of this Bill. This goes beyond Rs. One lakh and not below Rs. One lakh.

An hon. Member, I think it was Mr. Virumbi, who enquired whether there is any provisioning by the banks for covering the NPAs, Yes, Sir, a provisioning has been made for about 42 per cent of the NPAs amounting to roughly Rs. 23,500 crores. There was an observation made by an hon. Member that everybody else is being held to account but the officers and the staff of the bank are not being held responsible. I would like to share with the hon. Members that in every case where an account turns into a non-performing asset, banks do have a system of affixing responsibility and accountability of its officials. There was a suggestion about the possibility of extending this Bill. Yes, Madam, requests have already been received by the Government for extending this Bill to co-operative banks, to Unit Trust of India, to non-banking financial companies and there is a provision in the Bill by which the Government of India can extend the Bill to any institution or class of institutions by the issuance of a notification. An hon. Member had enquired about Ruia-Kotex and the bidding for acquiring stakes in Jesops and Company, which is a public sector undertaking despite the fact that Ruia-Kotex is a loan defaulter. Ministry of Disinvestment have informed that their guidelines do not disqualify a loan defaulter from bidding in the disinvestment process. In any event, this is an issue not connected with the Bill in question but I understand the import of the hon. Member's point. I am not going into the pure legality of the issue. That, however, is one part of it and the hon. Member wanted to know whether loan defaulters can themselves form an Asset Reconstruction Company or Securitisation Company. As I have already shared with the House the Reserve Bank of India is in the process of framing detailed guidelines regarding the conditions to be fulfilled before a company can be granted registration as an Asset Reconstruction or a Securitisation Company. I could assure the Members that such guidelines would address these issues, before these orders are issued, to avoid any possible conflict of interest.

There was a question enquired about the Dunlop India by my friend Mr. Roy Chowdhury and also others. I do not want to go into the details of the share-holding pattern of Dunlop India but it is true, Madam, that the company was declared sick in 1998, during about mid-1998 on 22nd June. IDBI is the operating agency for rehabilitation scheme. Draft rehabilitation

scheme has been circulated for the comments of the concerned agencies. It is true that the workers of the company have been protesting against the closure of the unit, and demanding its reopening quickly. Their contention is that the BIFR procedure is taking too long a time, and that the management of the company itself is, in part, responsible for the delay. These are the facts of the complaint. The other fact is that the case is coming up before the Appellate Body, if I am not mistaken, either today or tomorrow and the Appellate Body shall hear this case if not today they will certainly take it up tomorrow.

A number of hon. Members spoke about protection to workers consequentially to this legislation. Madam, workers' dues are already protected and shall continue to remain protected under Section 529 (A) of the Companies Act and the same provision shall remain applicable under the provisions of this Bill. In the event of the sale of the assets, the workers' dues are payable out of the sale proceeds of the assets on a pro rata basis with secured creditors. They will not be affected.

An hon. Member wanted to have a sectionalised break up of the NPA. I do have the figures here. Up to Rs. 1 lakh, the number of borrowers is 75 lakhs and 17 per cent is the borrowed sum. So, 75 lakhs and 17 per cent which is a non-performing asset, would be outside the provisions of this particular piece of legislation. This 75 lakhs in terms of number of borrowers, is almost, if I am not mistaken, over 75 per cent of the total number of borrowers. All of them are below Rs. 1 lakh. The numbers are large. But sums borrowed up to Rs. 1 lakh are outside the provision of this legislation. Then between Rs. 1 lakh and Rs. 10 lakhs, the number of borrowers is 3 lakhs and the borrowed sum is 12 per cent. Between Rs. 10 lakhs and Rs. 1 crore, the number of borrowers is 32,000 which comes to 14 per cent. The largest block in terms of volume is between Rs. 1 crore and Rs. 50 crores where 49 per cent is the borrowed amount and the number of borrowers is 7,000. So 49 per cent of the borrowed amount is with 7,000 borrowers. We are talking of a piece of legislation which is manageable, which is well judged and which will actually be effective in its application. In the case of Rs. 50 crores and above, it is six per cent and the total number of accounts is only 66. So we are talking of a very manageable figure here. Since the hon. Member wanted to have this information, I thought I should share this information with the hon. Member.

There is another piece of information that the hon. Members wanted to have. The hon. Members wanted to know that from the time of issuance of the Ordinance, what action was taken by the Government. Well out of 27 public sector banks, 25 banks issued notices in respect of 10 thousand borrowers, accounts amounting to roughly Rs. 3260 odd crores. Then banks did report and have reported that there was a positive impact of the Ordinance and that a number of borrowers had approached them for compromise and negotiable settlement of dues. In a similar fashion, the five financial institutions had issued notices in respect of 123 borrower accounts, valued again at Rs. 3600 crores. Madam, I really come to an end to the various explanations sought. It is possible that I might have missed an odd clarification. But that would get covered I am sure, by the largest explanation that I have already shared with all hon. Members. Before concluding, I would like to make that at the time of introduction of the Bill, I had made an announcement about the Lenders' Responsibility Bill. Guidelines already exist in it and I aim to convert these guidelines into a legislation. For concluding now, I would like to announce a one-time settlement scheme for the recovery of non-performing assets of public sector banks. As hon. Members know, the Reserve Bank of India had issued guidelines in July, 2000, to all public sector banks for recovery of their dues relating to non-performing assets, through a simplified non-discretionary and non-discriminatory mechanism for recovery of NPAs with outstandings up to Rs. 5 crores. This scheme was initially in force up to 31st March, 2001 and was susbsequently extended upto 30th June, 2001. Applications were received by the banks upto 30th June, 2001, were required to be processed and decisions taken thereon by 30th September, 2001. The total number of accounts in all public sector banks eligible under the above scheme was about 49 lakhs involving a sum of roughly Rs. 80,500 crores. The total number of applications received for settlement was about 9 lakhs involving a sum of Rs. 3,800 odd crores. It would be observed that the above scheme evoked a moderate response with only 19 per cent of the total number of eligible borrowers applying for settlements of their NPA accounts under the above scheme. Now, this, Madam, was in the absence of the legislation which now stands on the cusp of enacting. Therefore, I have reason to expect that with the promulgation and with the enactment rather the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Bill, at present, and Act shortly, 2002, the borrowers would now feel more

persuaded and more inclined to come forward for settlement of their oustanding dues. I think, therefore, it is only proper and just and fair that I give one more opportunity to the borrowers by launching once more a one-time settlement scheme. The cap this time for the one-time settlement scheme, I intend to move up from Rs. 5 to 10 crores. Upto Rs. 10 crores, borrowers would be given an opportunity to come for a one-time settlement. I will be requesting the Reserve Bank of India to issue other detailed guidelines in this regard, which they will do very shortly. I have no more to say on this piece of legislation and I am very grateful to all sections of this House for the support that they have extended to this legislation, in principle. I can assure all sections of the House that we will continue to be guided by objectivity and with only one purpose in mind which is true in the shortest possible time, re-impart to the banking sector, as also to the financial institutions, what is their due and what was actually borrowed from them. With these words, Madam, I commend this Bill to the House for passing.

DR. T. SUBBARAMI REDDY: Madam, I have a point...*(Interruptions)*

THE DEPUTY CHAIRMAN: You had your chance to speak in spite of the fact that your party did not have time...*(Interruptions)*

DR. T. SUBBARAMI REDDY: Madam, once this Bill is put into law, what will happen to the cases which are pending with the BIFR? If we look at what has been mentioned in one of the clauses in this Bill, it is going to create a conflicting situation. It is dangerous and, in fact, there would be a lot of complications. The Schedule of the Bill says: "...where a reference is pending before the BIFR, such reference shall abate..." It is totally conflicting. I did raise this point when I spoke on this Bill. The hon. Minister must explain this. what I suggest is that if a company has already been referred to the BIFR, and a one-time settlement is sought to be made, that must be allowed. Otherwise, it will lead to complications. Madam, kindly look at what the Schedule says...

THE DEPUTY CHAIRMAN: We cannot start another debate ...(Interruptions) No...*(Interruptions)*

DR. T. SUBBARAMI REDDY: It is not my personal view...

THE DEPUTY CHAIRMAN: Nothing is personal in this House...

DR. T. SUBBARAMI REDDY: I have a right to know this...

THE DEPUTY CHAIRMAN: Please sit down. When I say, 'No', 'No' means, you should not. When you were in the Lok Sabha, it might have been different. The Rajya Sabha works differently.

I shall now put the Resolution moved by Shri Kapil Sibal to vote.

The question is:

"That this House disapproves the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (Second) Ordinance, 2002 (No. 3 of 2002) promulgated by the President on the 21st August, 2002."

The motions was *negatived.*

THE DEPUTY CHAIRMAN: *I shall now put the motion to vote.*

The question is:

"That the Bill to regulate securitisation and reconstruction of financial assets and enforcement of security interest and for matters connected therewith or incidental thereto, as passed by Lok Sabha, be taken into consideraton."

The motion was adopted.

SHRI R.S. GAVAI (Maharashtra): Madam, I had taken permission to raise a point of clarification at this stage. I don't want to make an elaborate speech.

THE DEPUTY CHAIRMAN: You will be allowed to speak when we are in the third reading. That is what you had mentioned in your notice ...*(Interruptions)* Okay, what do you want to say?

SHRI R.S. GAVAI: Madam, I do welcome the Bill and I also welcome the statement of the hon. Minister. But there is one important thing which I want to raise here. The statement of the hon. Finance Minister has talked about the amounts between Rs. 1 crore and Rs. 50 crores. I happen to be a Member of the Assurances Committee and I had an opportunity to examine the various issues pertaining to the banks. My point is this. Those persons who are involved in business for their livelihood and have taken loans from the banks below an amount of Rs. 1 crore, say, Rs. 5 lakhs or Rs. 10 lakhs, in such case, the situation is totally different. The

value of the money has gone down. My request to the hon. Finance Minister is that you should not apply the same yardstick to these needy borrowers as those applied to big borrowers. The same yardstick should not be applied to those who borrow above one crore of rupees and those, who borrow less than one crore. That is my difficulty. He stated that some guidelines for the Reserve Bank are being considered. The suggestions given by me may be considered while formulating the guidelines by the Reserve Bank.

SHRI JASWANT SINGH: I had, in fact, not directly has to respond to this question. But, if you permit, I will clarify both this and an earlier observation made by Dr. T. Subbarami Reddy. It agitated him a great deal. I would be loathe to leave him agitated this evening.

THE DEPUTY CHAIRMAN: Yes, you can clarify both the points.

SHRI JASWANT SINGH: I would wish to reassure hon. Member, Dr. T. Subbarami Reddy that proceedings before the BIFR abate only when 75 per cent of the lenders take action under this Bill, not automatically. It is not, as if anyone taking action under this Bill, and the BIFR proceedings abate. Three quarters of the lenders when they take action, then, I am sure, you will also agree that justice and equity would demand. So, I am very glad he will now have a very peaceful evening.

So far as the point raised by the other hon. Member is concerned, a wilful defaulter must not have the benefit. I explained earlier, Madam, that in regard to wilful defaulters, the Reserve Bank of India has already issued guidelines and wilful defaulter, once so categorised, we have, in fact, advised that strictest possible action needs to be taken, including criminal action. So, I can assure, that where it is an established wilful default, consideration of any kind being shown there, simply does not arise.

THE DEPUTY CHAIRMAN: We shall now take up the clause-by-clause consideration of the Bill.

Clauses 2 to 4 were added to the Bill.

THE DEPUTY CHAIRMAN: We shall now take up clause 5. There is one amendment, by Shri Bagrodia.

SHRI SANTOSH BAGRODIA: Madam, I am not moving.

Clause 5 was added to the Bill.

THE DEPUTY CHAIRMAN: We shall now take up clause 6. There are three amendments, by Shri Santosh Bagrodia.

SHRI SANTOSH BAGRODIA: I am not moving, Madam.

Clause 6 was added to the Bill.

THE DEPUTY CHAIRMAN: We shall now take up clause 7. There is one amendment, by Shri Bagrodia.

SHRI SANTOSH BAGRODIA: Madam, I am not moving.

Clause 7 was added to the Bill.

Clause 8 was added to the Bill.

THE DEPUTY CHAIRMAN: We shall now take up Clause 9. There is one amendment, by Shri Bagrodia.

SHRI SANTOSH BAGRODIA: I am not moving, Madam.

Clause 9 was added to the Bill.

Clauses 10 to 12 were added to the Bill.

THE DEPUTY CHAIRMAN: We shall now take up clause 13. There are eight amendments, by Shri Santosh Bagrodia.

SHRI SANTOSH BAGRODIA: I am not moving, Madam.

Clause 13 was added to the Bill.

THE DEPUTY CHAIRMAN: We shall now take up clause 14. There are two amendments, by Shri Santosh Bagrodia.

SHRI SANTOSH BAGRODIA: Madam, I am not moving.

Clause 14 was added to the Bill.

THE DEPUTY CHAIRMAN: We shall now take up clause 15. There are eight amendments, by Shri Bagrodia.

SHRI SANTOSH BAGRODIA: I am not moving, Madam.

Clause 15 was added to the Bill.

Clause 16 was added to the Bill.

THE DEPUTY CHAIRMAN: We shall now take up clause 17. There are three amendments, by Shri Bagrodia.

SHRI SANTOSH BAGRODIA: I am not moving, Madam.

Clause 17 was added to the Bill.

THE DEPUTY CHAIRMAN: We shall now take up clause 18. There is one amendment, by Shri Bagrodia.

SHRI SANTOSH BAGRODIA: I am not moving, Madam.

Clause 18 was added to the Bill.

Clause 19 to 42 were added to the Bill.

THE DEPUTY CHAIRMAN: We shall now take up the Schedule. There is one amendment, by Shri Bagrodia.

SHRI SANTOSH BAGRODIA: I am not moving, Madam,

The Schedule was added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI JASWANT SINGH: Madam, I move:—

"That the Bill be passed."

The question was proposed.

THE DEPUTY CHAIRMAN: Dr. Das, you wanted to say something at the Third Reading.

DR. M.N. DAS (Orissa): Madam, I have to ask a very simple question, if you permit me.

This is a very simple question to the hon. Finance Minister, in a lighter vein, but with a deeper implication. Yesterday, during the course of the discussion, two eminent legal luminaries of our country, Shri Kapil Sibalji from the Opposition and Shri Arun Jaitley from the Treasury Benches, were arguing with each other, and also cutting jokes. Sibalji said that defaulters will chase politicians, and Jaitleyji retorted that it might be the other way round; politicians might chase the defaulters. So, the wisdom of the wit is this. Is there any likelihood of big defaulters, owing thousands of crores, and political leaders at the highest level colluding

together to find an escape route through the loopholes of this law. That is my humble question.

THE DEPUTY CHAIRMAN: I too have a question. You did not mention a word about women entrepreneurs. They are facing a lot of problems because of globalisation and because of the multinational companies coming to India.

SHRI JASWANT SINGH: Madam, I didn't do so, deliberately. As to hon. Member, Shri Das's point, is more philosophical than financial, it will require a different forum and a different venue for me to be able to do justice to him. On women entrepreneurs, Madam, I do hope that I will be able to say something more positive. But now that you have asked me, I must share with you that since I got this responsibility, I have already initiated a scheme whereby I am able to do... and I hope to do it quickly. I am able to provide easy finance to women in rural India, urban India, everywhere, outside of the banking regulations, outside of the banking formalities, outside of the very complex procedural matters that women have to go through. It is the small loan that women really require to set themselves up in small activities. It instils a sense of security; it instils a sense of selfconfidence; it gives women the ability to feel as if they are their own masters; it gives them a sense of freedom. I am personally committed to achieving all these in the shortest possible time so that the manner in which women can access these small loans is easy, is not cluttered with all kinds of complicated form-filling and is also not overweighed by aspects of what security you are providing or who is standing security for you. Madam, I have already initiated this, I have not yet reached the final stage. Therefore, I did not think that I should mention it now. But now that you have raised it, I thought I should share it with the House.

THE DEPUTY CHAIRMAN: In the form of micro credit.

SHRI JASWANT SINGH: Yes, somewhere it is...

SHRI SANTOSH BAGRODIA: That is for the future...

THE DEPUTY CHAIRMAN: Let him finish. He has been very positive. Let him finish this women's issue first.

SHRI JASWANT SINGH: Some groups are working in this regard. I think, we need to give them a lot of encouragement. I speak really for

rural India, as also for urban India. This is an aspect which I am trying to achieve in the shortest possible time. I have not come to a stage where I can now say that it is launched. It is not yet launched.

THE DEPUTY CHAIRMAN: Thank you, Mr. Minister.

SHRI SANTOSH BAGRODIA: That is why I said that it is only for the future. But what will happen to the women entrepreneurs under this Bill? Will you make any special consideration for them?

SHRI JASWANT SINGH: The Securitisation Bill does not discriminate between the sexes.

THE DEPUTY CHAIRMAN: But I was more concerned about the micro credit for the women. I now put the Bill to vote.

The question is:

"That the Bill be passed."

The motion was adopted.

THE DEPUTY CHAIRMAN: Now, we take up the Negotiable Instruments (Amendment and Miscellaneous Provisions) Bill, 2000. Shri Jaswant Singh.

The Negotiable instruments (Amendment and Miscellaneous Provisions) Interest Bill, 2002

THE MINISTER OF FINANCE AND COMPANY AFFAIRS (SHRI JASWANT SINGH): Madam, I don't wish to take much time of the House. I am very grateful that the House is considering this Bill. As the hon. Members are aware, the Negotiable Instruments Act was first enacted in 1881. It is a vintage legislation. Thereafter, it was amended only after about 100 years, in 1988. It is with a view to providing penalty in the case of dishonour of cheques. But these provisions are found to be deficient. A very large number of cases are pending in different courts of India. In this regard, to overcome these problems, the Negotiable Instruments (Amendment and Miscellaneous Provisions) Bill, 2001 was introduced in the House. It had some provisions about increasing the punishment, etc., to simplify the procedure for service of summons, and to make the offences compoundable and provide for summary trial. The Bill was referred to the Standing Committee, which has submitted its Report in November, 2001.